

REMARKS

This Preliminary Amendment is being submitted in conjunction with a Request for Continued Examination (filed concurrently herewith) in response to the final Official Action dated 6 July 2005. Claims 1 and 9-11 are amended and claims 2, 3, 5-6, 12-16 are canceled. The undersigned states that the claims include no new matter, nor is new matter intended by the Applicant, and it is believed proper to include these changes by preliminary amendment. Thus, claims 1, 4, and 7-11 are pending.

The Examiner rejected claims 1, 4, and 7 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,428,758 to Cowles (nursing bottle supporting frame). Also, the Examiner rejected claims 1, 2, 4, 7-9 under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,304,394 to Bohne et al. (paint can holder). Neither of these references show devices that would be capable of supporting a two-liter plastic bottle and allow pouring of the bottle without compression-spillage or slippage of the bottle out of the holder.

As stated in the present application, prior art bottle holders do not securely hold the bottle (to avoid losing it when poured forwardly), and they are not well-suited for holding current plastic 2-liter bottles because they tend to exert inappropriate forces along the central section of the bottle – the section of the bottle that is the most flexible, or deformable. This can cause the contents of the bottle to unexpectedly gush out of the neck opening resulting in spillage. The present invention overcomes this with a plastic 2-liter bottle holder that uses minimal materials and manufacturing cost, securely grips a 2-liter bottle even when poured at an angle, and does not exert any forces against the flexible sides of the bottle, thereby avoiding spillage. This is

accomplished by two ringlike cylindrical sections of different diameters which are spaced apart by two rigid struts, and a handle attached topwardly to one of the struts. It is essential that one ring-section closely conform to the shoulder of a two-liter plastic soft drink bottle shoulder for insertion of the bottle there through, by which the first cylindrical section cradles the bottle. It is also essential that the second ring section be smaller in diameter than the first and conform to the soft drink bottle base, and yet have an inwardly tapered inner surface to allow only partial insertion of the base until a tight friction fit is attained. This configuration will maintain the two-liter plastic bottle therein despite angling of said bottle to dispense liquid (it will not fall out), and yet it will not compress the sides of the bottle (likewise causing spillage). The Examiner has rejected the claims based on prior art that shows visually similar structure, and yet for different bottles that do not present the same problems. Thus, the differences in structure are very important and claim 1 is herein amended to specifically recite these differences as specifically as possible, including “*a first cylindrical section conforming to said two-liter plastic soft drink bottle shoulder for insertion of said soft drink bottle therein to said shoulder, thereby cradling said soft drink bottle at the shoulder through*” and “*a second cylindrical section smaller in diameter than said first cylindrical section and conforming to said soft drink bottle base, said second cylindrical section being formed with an inwardly tapered inner surface for partial insertion of said base therein and for gripping said base by a friction fit to maintain said two-liter plastic bottle therein despite angling of said bottle to dispense liquid*”. These limitations are combined in the context of “*a pair of struts, each of said two or more struts being fixedly attached at one end to endwise between said first cylindrical section and at another end to said*

second cylindrical section, said pair of struts spanning said first cylindrical section and second cylindrical section on diametric sides thereof, such that said first and second cylindrical sections are rigidly held in a spaced apart configuration” and “one or more support ribs, each of said support ribs being fixedly attached to one of said struts.” The entirety of claim 1 is also now limited to large, flexible, handle-less two-liter plastic soft drink bottles.

Neither of the primary references are capable of supporting a two-liter plastic bottle and to allow pouring of the bottle without compression-spillage or slippage of the bottle out of the holder because neither has the above-recited structure. Cowles '758 discloses a nursing bottle supporting frame with cylindrical sections and struts, but for a bag-type bottle. This inherently lacks "a second cylindrical section smaller in diameter than said first cylindrical section"... "said second cylindrical section being formed with an inwardly tapered inner surface for partial insertion of said base therein and for gripping said base by a friction fit to maintain said two-liter plastic bottle therein despite angling of said bottle to dispense liquid". Thus, claims 1, 4, and 7 are clearly not anticipated. The Bohne et al. '304 device has a bottom cup-like base of the same diameter as the upper ring, with no taper and no friction fit. Thus claim 1 is patentably distinguished, and claims 4 and 7 are dependant and likewise distinguished.

The Examiner rejected claim 5 under 35 U.S.C. 103(a) as being obvious in light of the Bohne et al. '304 patent in view of U.S. Patent No. 5,335,954 issued to Holub et al. Claim 5 is herein canceled.

Claims 10 and 11 were again rejected under 35 U.S.C. 103(a) as being obvious over the Bohne et al. '304 patent in view of U.S. Patent No. 4,896,913 issued to Kennedy (releasable self

locking handle for wide body, narrow neck containers made of plastic material which can be molded or manufactured by any known plastic manufacturing process). However, Kennedy goes no further toward showing a bottom section with taper for a friction fit, and so claims 10 and 11 are distinguished for the same above-described reasons.

Claim 12 was again rejected under 35 U.S.C. 103(a) as being obvious over the Bohne et. al '304 patent in view of U.S. Patent No. 395,409 issued to Waters (reversible tumbler holder). Claim 12 is herein canceled.

Claim 14 was again rejected under 35 U.S.C. 103(a) as being obvious over the Bohne et. al '304 patent in view of U.S. Patent No. 5,816,631 to Kochan (removable handle for use with large soft drink bottles). Claim 14 is herein canceled.

Claims 1, 4-7, 9, 10, 15, and 16 were also rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 2,961,112 to Didion (milk bottle holder) in view of U.S. Patent No. 6,378,924 (reusable bottle holder) to McCrumb. The Examiner argues that it would have been obvious to form the upper and lower cross sections of Didion's holder into generally cylindrical shapes as the McCrumb '924 patent teaches, to better handle cylindrical bottles. However, the Didion 112 device has a bottom cup-like base of the same diameter as the upper ring, with no taper and no friction fit. Indeed, a separate locking device is necessary on the handle. McCrumb '924 shows a clamshell holder that does not allow slidable insertion of the bottle, and thus needs no (nor has any) taper or friction fit at the bottom ring. Thus claim 1 is patentably distinguished, and claims 4, 7, 9 and 10 are dependant and likewise distinguished.

The amendments incorporated herein should raise no new issues because they merely add

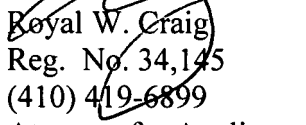
Application of: Shaskey, Mark S., Sr.

Serial No.: 10/671,974

features from canceled depending claims into the parent claim 1. Thus, the claims should now be in condition for allowance, and a Notice to this effect is respectfully requested. The Examiner is invited to call the undersigned at 410.419.6899 to discuss any remaining issues.

* * *

Respectfully submitted,



Royal W. Craig
Reg. No. 34,145
(410) 419-6899
Attorney for Applicant

Ober/Kaler
c/o Royal W. Craig
120 East Baltimore Street
Suite 800
Baltimore, Maryland 21202
410.347.7303